

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,
Plaintiff,
v.
MICHELLE L. ROBINSON,
Defendant.

CASE NO. 16-CR-5307 BHS-5

ORDER STAYING
CONSIDERATION OF
DEFENDANT'S MOTION UNTIL
JULY 8, 2019

This matter comes before the Court on Defendant Michelle Robinson’s Robinson”) motion to modify a term of imprisonment pursuant to 18 U.S.C. 822(C)(1)(A)(i). Dkt. 394. The Court has considered the pleadings filed in support of in opposition to the motion and the remainder of the file and hereby grants Plaintiff United States of America’s (“the Government”) request to stay consideration of the motion for the reasons stated herein.

I. PROCEDURAL HISTORY & FACTUAL BACKGROUND

The Court sentenced Robinson to a 24-month term of incarceration in 2017, Dkt. 323, which Robinson is currently serving at the Federal Detention Center in SeaTac, Washington (“FDC”). In mid-May of 2019, the Court received a letter from Robinson’s

1 aunt requesting Robinson's early release from the FDC due to untreated medical
2 problems related to a brain tumor. *See* Dkt. 392. The Court subsequently appointed an
3 attorney for Robinson pursuant to General Order 03-19, which provides for the
4 appointment of counsel to assist defendants who may be eligible for early/compassionate
5 release under the First Step Act of 2018, Pub. L. No. 115-015, 132 Stat. 015 (2018)
6 ("First Step Act"). Dkt. 400.

7 On June 10, 2019, Robinson filed a motion for compassionate release supported
8 by a declaration from Robinson and a motion to seal the declaration. Dkts. 394, 395, 396.
9 On June 14, 2019, the Government responded and filed a supporting declaration from
10 Julie Slack, Unit Manager at the FDC. Dkts. 398, 399. Robinson did not reply.

11 II. DISCUSSION

12 Robinson explains that the basis for her motion is that she has been diagnosed with
13 a brain tumor. Dkt. 394. The tumor is causing her eyesight to fail and requires urgent
14 surgery, which has either been delayed or denied by the Bureau of Prisons ("BOP"). *Id.*
15 In 1984, Congress authorized compassionate release from prison under the criteria found
16 in 18 U.S.C. § 3582(c)(1)(A). On December 21, 2018, Congress enacted the First Step
17 Act. In relevant part, the First Step Act amended § 3582(c)(1)(A)'s criteria so that
18 sentencing courts may consider modifying a term of imprisonment in any case where
19 thirty days have passed since the defendant submitted a request for compassionate release
20 to the warden of the facility where the defendant is confined. § 3582(c)(1)(A). Further,
21 under the amendment a motion for compassionate release may now be initiated by either
22 the defendant or the BOP. *Id.*

1 In its response to the motion, the Government “requests this Court to stay
2 consideration of Ms. Robinson’s motion for a period of thirty days, or until completion of
3 administrative review by the Bureau of Prisons of the [sic] Ms. Robinson’s request for
4 compassionate release, whichever is earlier.” Dkt. 398 at 1. Because the Government has
5 established that Robinson did not request compassionate release from the warden of the
6 FDC until June 7, 2019, Dkt. 399 at 2; Dkt. 399-3 at 2, the Court agrees that the motion is
7 premature because thirty days have not yet passed. Therefore, a stay is warranted.

8 Robinson is entitled to present her motion to the Court when thirty days have
9 passed following her request to the warden. Because Robinson filed her request with the
10 warden on June 7, 2019, the Court will only stay consideration of the motion until July 8,
11 2019. 18 U.S.C. § 3582(c)(1)(A).

12 The Government asserts that it will support Robinson’s motion if its review of the
13 matter demonstrates unequivocally that Robinson’s medical condition warrants relief.
14 Dkt. 398 at 6. As a result of BOP’s denial or delay of surgery to address the tumor,
15 Robinson declares that she is now entirely blind in her left eye and only has partial sight
16 in her right eye. Dkt. 396 at 1–2. She also experiences worsening headaches and has had
17 balance problems resulting in three falls. *Id.* at 2. Given the rapid progression of these
18 symptoms, the Court finds it appropriate to order the Government to file a supplemental
19 response updating the Court on its position on the motion by close of business on July 8,
20 2019. In the interim, either Robinson or the Government may submit further
21 documentation of Robinson’s medical issues.

Finally, the Court grants Robinson's motion to seal her declaration after finding that the declaration contains sensitive medical information, and that Robinson's right to privacy in her medical information outweighs the public's right of access to the court's files. Local Rules W.D. Wash. LCR 5(g).

III. ORDER

Therefore, it is hereby **ORDERED** that Robinson's motion to modify a term of imprisonment, Dkt. 394, is **STAYED until July 8, 2019**, and Robinson's motion to seal, Dkt. 395, is **GRANTED**.

The Clerk shall remote Robinson's motion to modify for consideration on the Court's July 8, 2019, calendar. Should the Government complete its review of the matter prior to July 8, 2019, it shall promptly notify the Court and counsel for Robinson.

Dated this 21st day of June, 2019.


BENJAMIN H. SETTLE
United States District Judge